

TAB

[No. 27]

**FULL COMMITTEE CONSIDERATION OF H.R. 384, H.R. 8427, S. 812,  
S. 1994, AND H.R. 8265**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
*Washington, D.C., Tuesday, September 24, 1963.*

The committee met at 10:16 a.m., Hon. Carl Vinson (chairman), presiding.

The CHAIRMAN. Let the committee come to order.

Members of the committee, the meeting this morning is to consider several bills that have been reported by the subcommittee.

Before we start I want to compliment the committee for their active, loyal, and illuminating participation in the debate the other day when we had up the shelter bill. I am very proud of the great record that the committee made. It was an outstanding debate, and the achievement was worth while.

Now, the status with reference to the pay bill is that the Senate yesterday named conferees and Mr. Rivers, the chairman of the conferees, is going to try to have a hearing as soon as possible, perhaps tomorrow, with the Senate conferees.

Mr. RIVERS. Mr. Chairman, I would like to ask the conferees to remain a few minutes after this committee, if there is no other committee meeting.

Will the conferees please remain after this.

Mr. NORBLAD. Yes.

The CHAIRMAN. Now, I think when we finish these bills today, perhaps after Mr. Hébert finishes the bill he is working on, the ROTC bill, that that would probably wind up the major portion of our work for this session. But we will all be here for some weeks from now, and I am hoping that we will—

Mr. BECKER. Why?

Mr. WINSTEAD. Mr. Chairman, you won't have any hearings on your bill?

The CHAIRMAN. Oh, yes, we will have hearings, but we are not going to call that until after we see what kind of civil rights bill is submitted to the House. That will be on the 15th. We will all get back to work after the 15th.

You have reference to the nullification of the Gesell report.

Now, the first bill this morning is H.R. 384. We passed a similar bill last year, but we did not get it through the Senate.

Now, I recognize Mr. Rivers to present this bill.

Mr. RIVERS. Mr. Chairman, as you have just said, we passed this proposal last year. It is a bill by the distinguished member of Congress from California, Mr. Mailliard. I could briefly explain this, but I only have two pages here, if you want me to refresh the committee's—

(5937)

5938

The CHAIRMAN. I suggest you refresh the committee's memory about the temporary promotions.

Mr. RIVERS. I had better read this then.

Existing laws provide that members of the Armed Forces are entitled to be retired only in the permanent grade held in the armed force from which retired, or to the highest temporary grade satisfactorily held in that armed force. The proposed legislation permits persons who served in a higher permanent or temporary grade in another service to be retired in that higher grade.

The proposed legislation will also overcome the adverse effect of a decision by the Comptroller General (B-134566, Feb. 28, 1958) in which it was held that, in determining the highest temporary grade in which an Air Force member had served, and he was entitled to be retired, service in the Army could be considered only if the higher grade was held in the Army Air Corps or the Army Air Force. This has to do with the fact that when the Air Force was part of the Army, to wit, the Army Air Corps. Prior to that decision, it had been the view of the Department of the Air Force that, in the case of Air Force personnel who had formerly served in the Army, Army service was to be considered as the equivalent, for all purposes, of service in the Air Force, when, of course, the Air Force was created. That decision by the Comptroller General was modified by a subsequent decision dated February 1, 1963, which held that any member of the Army, who was transferred to the Air Force under the authority of section 208(c) of the National Security Act of 1947, as amended, and who later retired from the Air Force, is also eligible for consideration for advancement on the retired list of the Air Force to higher temporary grades held in the Army. In the case of Air Force personnel who were retired in a grade held in the Army other than the Army Air Corps or Army Air Force, and who were not transferred to the Air Force under section 208(c) of the National Security Act, as amended, there is an overpayment of retired pay involved. Since such payments were made and received in good faith, they are validated by this bill.

The Department of Defense recommended that H.R. 384 be amended because under present law enlisted members of the Navy and Marine Corps cannot be retired for length of service in a higher grade previously held on active duty unless that grade was an officer grade. While the numbers of individuals involved would be very small, equity and consistency require that Navy and Marine Corps enlisted members be authorized retirement in higher enlisted grades satisfactorily held under the same conditions as their Army and Air Force contemporaries. In order to provide this authority, the following amendments to H.R. 384 were suggested:

a. Add a new section which will be as follows:

SEC. 5. Section 6151(a) of title 10, United States Code, is amended by striking out the word "officer" and the words "under a temporary appointment."

b. On page 2 of the bill, in line 13, strike out the words "section 1" and in place thereof insert the words "sections 1 and 5."

We adopted these amendments.

It is estimated that the retroactive costs of the proposed legislation will be approximately \$130,000, and that the total annual recurring cost will be about \$370,000. The Department of Defense advises us

that the retroactive cost can be absorbed within funds already in possession of the DOD.

That is the bill.

The CHAIRMAN. Any questions by any members, of this bill?

You all understand what the objective of the bill is?

Mr. BRAY. Did the Senate committee have hearings on this bill?

Mr. RIVERS. I don't know what they did last year; they didn't pass it.

Mr. HARDY. I would like to ask a question. As far as the bill itself is concerned, I am completely in accord with the bill, but during the course of the subcommittee hearings I raised a question about the policy of several services with respect to these overpayments insofar as similar situations arise with respect to civilian personnel.

Now, we have been through this thing time and again, and the services invariably come up here with legislation designed to waive overpayments for military personnel, and they have consistently refused to report favorably on legislation designed to waive similar overpayments to civilians.

Now, as I say, I think this is a good bill, I think it ought to be passed, but I think that the Department's policy ought to be consistent, and if it is not going to be consistent and if they are not going to apply it with respect to civilians also, then from here on out I am going to try to block every single one of these bills that comes up here with respect to military personnel. I think we ought to have some kind of a report.

I made these observations in the subcommittee. I haven't received anything further to indicate whether the Defense Department's policy is going to be consistent.

The CHAIRMAN. In that connection, Mr. Hardy, let me say this: The same situation arose about overpayments down in the Macon Naval Ordnance Plant, a matter of about some \$7,000 with various civilian employees. I introduced a bill for relief, and it is pending before the Judiciary Committee, and our report from the Department was favorable, wasn't it?

Mr. SLATINSHEK. Yes, sir.

The CHAIRMAN. And so we are trying to—I am trying to correct it, and I agree with you thoroughly, there should be some uniform policy. You see, these civilian employees have been promoted, and then the Comptroller checks on it and says they were not entitled to the pay they received, and they are being held responsible for it, and something must be done, but we must be positive that we are going to hold somebody responsible that made these errors.

Now, all of them are errors that they made in permitting pay scales to be increased when certain things happen.

Mr. HARDY. That is correct, but—

Mr. RIVERS. Let me say this: This is not exactly on all fours with this. This is just a silly construction of the GAO saying that a member of the Air Force was not a member of the Air Force when it was part of the Army and the Air Force under the National Security Act had every reason to believe that those records were made part and parcel of this new organization known as the Air Force, U.S. Air Force. This is not exactly—

Mr. HARDY. Don't misunderstand me.

The CHAIRMAN. They may not be exactly the same, but involve the same principle. Some errors were made by somebody somewhere and the civilians have to pay the price.

Mr. RIVERS. I would like to see us find a way to get jurisdiction on this bill that you are talking about.

Mr. NORBLAD. Judiciary.

Mr. RIVERS. If you can find out a way for us to get jurisdiction, and the chairman will let me handle it, I will guarantee it will come out.

Mr. HARDY. That is the problem. In this bill we do have a waiver of these overpayments which under normal circumstances would go to the Judiciary.

Mr. RIVERS. If we can get jurisdiction.

Mr. HARDY. Hereafter the thing that I am going to be concerned with primarily is Judiciary Committee action. Now, this I have been through a good many times.

The CHAIRMAN. Of course you have the same situation.

Mr. HARDY. I have had the same situation. And the Navy's refusal to send in a favorable report was so blantly in error that twice the Judiciary Committee of the House has reported out bills of mine which died in the Senate because the Navy insisted on their objections.

The CHAIRMAN. What this bill I introduced—

Mr. SLATINSHEK. The bill you introduced received a "no objection" report from the Navy.

Mr. HARDY. The only reason they did it is because he is chairman of the committee.

The CHAIRMAN. No, no.

Mr. BENNETT. Because I had one, too.

The CHAIRMAN. No, no, because the facts and circumstances show that there was an honest error made, and these individuals—

Mr. HARDY. That doesn't have a thing in the world to do with testimony it just depends on the frame of mind they are in when they pass on it.

The CHAIRMAN. Without objection, the committee acts favorably on H.R. 384, and Mr. Rivers on behalf of the Armed Services Committee will place the bill on the Consent Calendar and handle the bill on the floor of the House.

Mr. HARDY. Could I inquire as to whether there has been any result or any response from any of the services with respect to my request for information on this matter when it was before the subcommittee?

Mr. RIVERS. There is the chief counsel right there.

Mr. BLANDFORD. There has been no formal response, Mr. Hardy, to the inquiries you have made. This matter has been brought to the attention of the Department of the Navy, and they are well aware of your position.

Mr. HARDY. From here on out, unless there is a uniform policy, I am going to object to every one of them, and I am going to watch every Consent Calendar.

The CHAIRMAN. Has the committee requested the information that Mr. Hardy has just called to our attention?

Mr. BLANDFORD. In the nature of the request that Mr. Hardy made during the subcommittee hearings; yes, sir.

The CHAIRMAN. Just during the hearings?

Mr. BLANDFORD. Yes, sir.

The CHAIRMAN. On the subcommittee hearings on this bill?

Mr. BLANDFORD. Yes. I think the Navy is well aware of this, and I think in the future you are going to see a policy.

The CHAIRMAN. The committee has requested that information. I suggest to you that you check on it and get the information.

Mr. HARDY. Thank you.

Mr. RIVERS. If the committee has requested it, request it.

The CHAIRMAN. Now, the next bill is a very important bill, a departmental bill, H.R. 8427, fixing a retirement system for the CIA personnel.

You all know this is the central agency which was created by this committee, under the jurisdiction of this committee, and now this is the bill with reference to retirement. Heretofore, they had been retiring under civil service retirement laws, and after going over this matter with Mr. McCone and his other officials, it was decided the proper way to handle the matter was by specific legislation, and a bill was introduced by Mr. Rivers on behalf of the committee and the CIA to accomplish it.

Go ahead, Mr. Rivers, explain the bill.

Mr. RIVERS. Let me at the outset say, Mr. Chairman, that we worked pretty hard on this bill. It affects one of our vital agencies. It is doing an outstanding job. And they sent the bill up here, and it contained an awful lot of provisions which didn't really affect the main and the important thing of retirement for outstanding service, and we decided to make it, to rewrite the bill, and have a bill that related specifically to the retirement of these fine personnel. And H.R. 8427 is the handiwork of the subcommittee. A copy of the bill follows:

[H.R. 8427, 88th Cong., 1st sess.]

A BILL To provide for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### TITLE I—SHORT TITLE AND DEFINITIONS

##### PART A—SHORT TITLE

SEC. 101. This Act may be cited as the "Central Intelligence Agency Retirement Act of 1963 for Certain Employees".

##### PART B—DEFINITIONS

SEC. 111. When used in this Act, the term—

- (1) "Agency" means the Central Intelligence Agency; and
- (2) "Director" means the Director of Central Intelligence.

**TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
DISABILITY SYSTEM**

**PART A—ESTABLISHMENT OF SYSTEM**

**RULES AND REGULATIONS**

SEC. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, referred to hereafter as the system.

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

(c) In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947, as amended (50 U.S.C. 403 (d)(3)), that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of the Administrative Procedure Act (5 U.S.C. 1001 et seq.) or any other provisions of law, any determinations by the Director authorized by the provisions of this Act shall be deemed to be final and conclusive and not subject to review by any court.

**ESTABLISHMENT AND MAINTENANCE OF FUND**

SEC. 202. There is hereby created a fund to be known as the Central Intelligence Agency Retirement and Disability Fund which shall be maintained by the Director. The Central Intelligence Agency Retirement and Disability Fund is referred to hereafter as the fund.

**PARTICIPANTS**

SEC. 203. The Director may designate from time to time such Agency officers and employees, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any participant who has completed fifteen years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the system may elect to remain a participant of such system for the duration of his employment by the Agency and such election shall not be subject to review or approval by the Director.

**ANNUITANTS**

SEC. 204. (a) Annuityants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, dependent widowers, children, and beneficiaries of participants or annuityants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this Act the term—

(1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by marriage to the participant.

(2) "Dependent widower" means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by marriage to the participant, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

(3) "Child" means an unmarried child, under the age of eighteen years, or such unmarried child regardless of age who, because of physical or mental disability incurred before age eighteen, is incapable of self-support. In addition to the offspring of the participant and his or her spouse, the term includes (i) an adopted child, and (ii) a stepchild or recognized natural child who received more than one-half of his support from the participant.

**PART B—COMPULSORY CONTRIBUTIONS**

SEC. 211. (a) Six and one-half per centum of the basic salary received by each participant shall be contributed to the fund for the payment of annuities, cash benefits, refunds and allowances. An equal sum shall also be con-

tributed from the respective appropriation or fund which is used for payment of his salary. The amounts deducted and withheld from basic salary together with the amounts so contributed from the appropriation or fund shall be deposited by the Agency to the credit of the fund.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which he shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the individual's salary.

#### PART C—COMPUTATION OF ANNUITIES

SEC. 221. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the fund, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 251 and 252. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted.

(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife or her husband, commencing on the date following such participant's death and terminating upon the death of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 50 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by  $2\frac{1}{2}$  per centum of any amount up to \$2,400 he specified as the base for the survivor benefit plus 10 per centum of any amount over \$2,400 so specified.

(c) (1) If an annuitant dies and is survived by a wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each child an annuity equal to the smallest of: (i) 40 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$600; or (iii) \$1,800 divided by the number of children.

(2) If an annuitant dies and is not survived by a wife or husband but by a child or children, each surviving child shall be paid an annuity equal to the smallest of: (i) 50 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$720; (iii) \$2,160 divided by the number of children.

(d) If a surviving wife or husband dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such wife, husband, or child had not survived the participant.

(e) The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the first day of the next month after the participant dies and such annuity or any right thereto shall be terminated upon death, marriage, or attainment of the age of eighteen years, except that, if a child is incapable of self-support by reasons of mental or physical disability, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

(f) Any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest (as that term is used in 5 U.S.C. 2259(h)) in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section, and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 per centum. The annuity of a survivor designated under this paragraph shall be 50 per centum of the reduced annuity computed as prescribed above. The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable.

## PART D--BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

## RETIREMENT FOR DISABILITY OR INCAPACITY--MEDICAL EXAMINATION--RECOVERY

SEC. 231. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. If the disabled or incapacitated participant has less than twenty years of service credit toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that he has had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and the mandatory retirement age applicable to his grade in the Agency.

(b) In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his grade in the Agency. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date his recovery is determined. Upon application the Director may reinstate any such recovered disability annuitant in the grade in which he was serving at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the fund. If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

(c) If a recovered disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, he shall be considered to have been separated within the meaning of paragraphs (a) and (b) of section 234 as of the date he was retired for disability and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 241(a) except that he may elect voluntary retirement in accordance with the provisions of section 233 if he can qualify under its provisions.

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.), covering the same period of time. This provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the said Act of September 7, 1916, as amended, shall be so construed as to deny the right of any participant to receive an annuity under this Act by reason of his own services and to receive concurrently any payment under such Act of September 7, 1916, as amended, by reason of the death of any other person.

(e) Notwithstanding any provision of law to the contrary, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 14 of the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 764), except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period

extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal employees' compensation fund. Before such person shall receive such annuity he shall (1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such Department for reimbursement to such fund. Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding.

## DEATH IN SERVICE

SEC. 232. (a) In case a participant dies and no claim for annuity is payable under the provisions of this Act, his contributions to the fund, with interest at the rates prescribed in sections 241(a) and 281(a), shall be paid in the order of precedence shown in section 241(b).

(b) If a participant, who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a widow or a dependent widower, as defined in section 204, such widow or dependent widower shall be entitled to an annuity equal to 50 per centum of the annuity computed in accordance with the provisions of paragraph (e) of this section and of section 221(a). The annuity of such widow or dependent widower shall commence on the date following death of the participant and shall terminate upon death of the widow or dependent widower, or upon the dependent widower's becoming capable of self-support.

(c) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(1). The child's annuity shall begin and be terminated in accordance with the provisions of section 221(e). Upon the death of the surviving wife or husband or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though such wife or husband or child had not survived the participant.

(d) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(2). The child's annuity shall begin and terminate in accordance with the provisions of section 221(e). Upon termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though that child had never been entitled to the benefit.

(e) If, at the time of his or her death, the participant had less than twenty years of service credit toward retirement under the system, the annuities payable in accordance with paragraph (b) of this section shall be computed in accordance with the provisions of section 221 on the assumption he or she has had twenty years of service, but the additional service credit that may accrue to a deceased participant under this provision shall in no case exceed the difference between his or her age on the date of death and the mandatory retirement age applicable to his or her grade in the Agency. In all cases arising under paragraphs (b), (c), (d), or (e) of this section, it shall be assumed that the deceased participant was qualified for retirement on the date of his death.

## VOLUNTARY RETIREMENT

SEC. 233. Any participant in the system who is at least fifty years of age and has rendered twenty years of service may on his own application and

with the consent of the Director be retired from the Agency and receive benefits in accordance with the provisions of section 221 provided he has not less than five years of service with the Agency.

DISCONTINUED SERVICE RETIREMENT

Sec. 234. (a) Any participant who separates from the Agency after obtaining at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), may, upon separation from the Agency or at any time prior to becoming eligible for an annuity, elect to have his contributions to the fund returned to him in accordance with the provisions of section 241, or (except in cases where the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States) to leave his contributions in the fund and receive an annuity, computed as prescribed in section 221, commencing at the age of sixty years.

(b) If a participant who has qualified in accordance with the provisions of paragraph (a) of this section to receive a deferred annuity commencing at the age of sixty dies before reaching the age of sixty his contributions to the fund, with interest, shall be paid in accordance with the provisions of sections 241 and 281.

(c) The Director may in his discretion retire participants in grade GS-14 and above. If so retired they shall receive retirement benefits in accordance with the provisions of section 221, provided they have in each case not less than five years of qualifying and a total of ten years of service with the Agency. Any individual so retired who does not meet these service requirements shall receive the benefits provided for individuals in grade GS-13 as set out in paragraph (d) of this section.

(d) The Director may in his discretion retire participants in grade GS-13 and below, and each such participant shall receive—

(1) one-twelfth of a year's salary at his then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his then current salary rate, payable without interest, from the fund, in three equal installments on the 1st day of January following the participant's retirement and on the two anniversaries of this date immediately following: *Provided*, That in special cases, the Director may in his discretion accelerate or combine the installments; and

(2) a refund of the contributions made to the fund, with interest as provided in section 241(a), except that in lieu of such refund such participant, if he has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), may elect to receive retirement benefits on reaching the age of sixty in accordance with the provisions of section 221. In the event that a participant who was separated from grade GS-13 or GS-12 and who has elected to receive retirement benefits dies before reaching the age of sixty, his death shall be considered a death in service within the meaning of section 232. In the event that a participant who was separated from grade GS-11 or below and who has elected to receive retirement benefits dies before reaching the age of sixty, the total amount of his contributions made to the fund, with interest as provided in section 241(a), shall be paid in accordance with the provisions of section 241(b).

(e) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), or the provisions of any other law, a participant who is retired in accordance with the provisions of paragraph (d) of this section shall have the right to assign to any person or corporation the whole or any part of the benefits receivable by him pursuant to paragraph (d) (1) of this section.

MANDATORY RETIREMENT FOR AGE

Sec. 235. (a) Any participant in the system in grade GS-18 or above shall upon reaching the age of sixty-five be retired from the Agency and receive retirement benefits in accordance with the provisions of section 221, but whenever the Director shall determine it to be in the public interest, he may extend such a participant's service for a period not to exceed five years.

(b) Any participant in the system, other than in grade GS-18 or above, shall upon reaching the age of sixty be retired from the Agency and receive retirement benefits in accordance with the provisions of section 221, but whenever the Director shall determine it to be in the public interest, he may extend such a participant's service for a period not to exceed five years.

**PART E—DISPOSITION OF CONTRIBUTIONS AND INTEREST IN EXCESS OF BENEFITS RECEIVED**

SEC. 241. (a) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of separation including all contributions made during or for such period, except as provided in section 281, shall be returned to him.

(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 281, with interest at 4 per centum per annum compounded annually as is provided in paragraph (a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, accumulated at the same rate of interest up to the date the annuity payments cease under the terms of the annuity, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries designated by such participant in writing to the Director;

(2) If there be no such beneficiary to the surviving wife or husband of such participant;

(3) If none of the above, to the child or children of such participant and descendants of deceased children by representation;

(4) If none of the above, to the parents of such participant or the survivor of them;

(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

(6) If none of the above, to other next of kin of such participant as may be determined by the Director in his judgment to be legally entitled thereto.

(c) No payment shall be made pursuant to paragraph (b) (6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

**PART F—PERIOD OF SERVICE FOR ANNUITIES**

**COMPUTATION OF LENGTH OF SERVICE**

SEC. 251. For the purposes of this Act, the period of service of a participant shall be computed from the date he becomes a participant under the provisions of this Act, but all periods of separation from the Agency and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.), and leaves of absence granted participants while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

**PRIOR SERVICE CREDIT**

SEC. 252. (a) A participant may, subject to the provisions of this section, include in his period of service—

(1) civilian service in the executive, judicial, and legislative branches of the Federal Government and in the District of Columbia government, prior to becoming a participant; and

(2) active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

(b) A participant may obtain prior civilian service credit in accordance with the provisions of paragraph (a) (1) of this section by making a special contribution to the fund equal to 5 per centum of his basic annual salary for each year of service for which credit is sought prior to November 8, 1960, and at 6½ per centum thereafter with interest compounded annually at 4 per centum per annum to the date of payment. Any such participant may, under such conditions as may be determined in each instance by the Director, pay such special contributions in installments.

(c) (1) If an officer or employee under some other Government retirement system becomes a participant in the system by direct transfer, such officer or employee's total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to the fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

(2) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c) (1) of this section, shall be required to make contributions in addition to those transferred for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by section 211 of this Act for contributions to the fund.

(3) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c) (1) of this section, shall receive credit for periods of service for which a refund of contributions has been made, or for which no contributions were made to the other Government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the fund in accordance with the provisions of paragraph (b) of this section.

(d) No participant may obtain prior civilian service credit toward retirement under the system for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government.

(e) A participant may obtain prior military or naval service credit in accordance with the provisions of paragraph (a) (2) of this section by applying for it to the Director prior to retirement or separation from the Agency. However, in the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included, except that in the case of a participant who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or is awarded under chapter 67 of title 10 of the United States Code, the period of such military or naval service shall be included. No contributions to the fund shall be required in connection with military or naval service credited to a participant in accordance with the provisions of paragraph (a) (2) of this section.

#### CREDIT FOR SERVICE WHILE ON MILITARY LEAVE

Sec. 253. Contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

#### PART G—MONEYS

##### ESTIMATE OF APPROPRIATIONS NEEDED

Sec. 261. The Director shall prepare the estimates of the annual appropriations required to be made to the fund, and shall cause to be made actuarial valuations of the fund at intervals of five years, or oftener if deemed necessary by him.

INVESTMENT OF MONEYS IN THE FUND

SEC. 262. The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the fund as in his judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances, and the income derived from such investments shall constitute a part of such fund.

ATTACHMENT OF MONEYS

SEC. 263. None of the moneys mentioned in this Act shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 234(e).

PART II—RETIRED PARTICIPANTS RECALLED, REINSTATED, OR REAPPOINTED IN THE AGENCY, OR REEMPLOYED IN THE GOVERNMENT RECALL

SEC. 271. (a) The Director may recall any retired participant to duty in the Agency whenever he shall determine such recall is in the public interest.

(b) Any such participant recalled to duty in the Agency in accordance with the provisions of paragraph (a) of this section or reinstated or reappointed in accordance with the provisions of section 231(b) shall, while so serving, be entitled in lieu of his annuity to the full salary of the grade in which he is serving. During such service, he shall make contributions to the fund in accordance with the provisions of section 211. When he reverts to his retired status, his annuity shall be determined anew in accordance with the provisions of section 221.

REEMPLOYMENT

SEC. 272. Notwithstanding any other provision of law, a participant retired under the provisions of this Act shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer.

REEMPLOYMENT COMPENSATION

SEC. 273. (a) Notwithstanding any other provision of law, any annuitant who has retired under this Act and who is reemployed in the Federal Government service in any appointive position either on a part-time or full-time basis shall be entitled to receive the salary of the position in which he is serving plus so much of his annuity payable under this Act which when combined with such salary does not exceed during any calendar year the basic salary such annuitant was entitled to receive on the date of his retirement from the Agency. Any such reemployed annuitant who receives salary during any calendar year in excess of the maximum amount which he may be entitled to receive under this paragraph shall be entitled to such salary in lieu of benefits hereunder.

(b) When any such retired annuitant is reemployed, the employer shall send a notice to the Agency of such reemployment together with all pertinent information relating thereto, and shall pay directly to such annuitant the salary of the position in which he is serving.

(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed annuitant, or from any other moneys, including his annuity, payable in accordance with the provisions of this Act.

PART I—VOLUNTARY CONTRIBUTIONS

SEC. 281. (a) Any participant may, at his option and under such regulations as may be prescribed by the Director, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be—

- (1) returned to him in lump sum; or
  - (2) used to purchase an additional life annuity; or
  - (3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or
  - (4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in subparagraph (3) above.
- (b) The benefits provided by subparagraphs (2), (3), or (4) of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.
- (c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.
- (d) Any benefits payable to a participant or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this Act.

At the present time all employees of CIA are limited to the normal civil service retirement benefits. On the other hand, more liberal retirement benefits have been in effect for many years for the Foreign Service and for certain personnel engaged in investigation and detection of crime and apprehension of criminals.

In our opinion, many CIA employees serve under conditions which are as difficult, probably more dangerous and onerous than the conditions which led to improved retirement benefits for the Foreign Service and certain personnel of the FBI and other agencies.

CIA employees who will come under this proposed system are obligated, in writing, to serve anywhere in the world according to the needs of the Agency, as is the case in the Foreign Service and the military, but unlike the normal civil service employee. The Agency has a definite need to maintain a young service by encouraging earlier retirement and in some cases directing earlier retirement. The voluntary early retirement features of this proposed legislation will serve this end.

Since the Agency is unable, in fact, to provide full-term careers for many individual officers, it is necessary to minimize the adverse effects of the required programs of managed attrition and to preserve its ability to recruit and retain the high caliber personnel it needs. Therefore, the Agency must make reasonable provision for the futures of those individuals who must be separated before completing a full-term career of 30 or more years.

H.R. 8427 is a clean bill introduced after careful consideration by the subcommittee following 4 days of extensive hearings on H.R. 7216 which was the original bill. While the primary purpose of H.R. 7216 was an improved retirement system, as I have said before, it did include numerous amendments of a technical nature designed to update certain sections of the Central Intelligence Agency Act of 1949. It also contained other provisions which sought to grant certain new authorities to the Agency. Early in the hearings, the subcommittee determined that H.R. 7216, in its entirety, was of such

wide scope that it should be revised so as to limit it strictly to the establishment of an improved retirement system. Accordingly, H.R. 8427 has only those provisions which relate to the establishment of an integrated and self-contained retirement system for certain employees of the Agency. It is estimated that a maximum of only about 30 percent of the total employee strength will become eligible for coverage under this system.

It was determined that rather than devise an entirely new retirement system, with the attendant difficulties, the CIA retirement system should be patterned after the Foreign Service system since it was felt that such a system was sufficiently flexible to meet Agency requirements.

The primary features of this bill provide for voluntary retirement, with the consent of the Director, by an employee at the age of 50 if he has 20 years of service. The subcommittee rewrote the original section so as to require that such an employee would need at least 5 years with the Agency in order to be eligible. Another key feature of the bill will permit the Director to retire individuals involuntarily where such retiree is in the grade of GS-14 or above. Such an employee will be entitled to draw an immediate earned annuity regardless of age at time of retirement. In our consideration we added a requirement, however, that in order to be eligible for such an annuity, the individual must have had at least 5 years of qualifying service with the Agency and a total of at least 10 years' service with the Agency. The term "qualifying service" is used to refer to that type of service which the Director determines would be of the nature which would qualify an individual to be a participant in this system. Generally, only those career employees will be covered whose careers are primarily oriented toward the conduct and support of intelligence activities abroad.

The Director may also retire involuntarily employees in grade GS-13 and below. In such case, they will be entitled to deferred annuities payable at age 60 if otherwise eligible and, in addition, will receive separation compensation at the rate of 1 month's pay for each year of service with a maximum of 1 year's salary. The other provisions of the bill are comparable to the Foreign Service system.

In the interest of security, it is believed that this system must be administered within the Agency separate from existing retirement funds. In furtherance of maintaining proper security, the subcommittee bill provides that determinations authorized by the Director under the act would not be subject to judicial review. Otherwise, sensitive information relating to the assignments of these individuals probably would be brought into court in the event of a dispute. It is estimated that after a 5-year leveling off period, the net additional costs resulting from enactment of this legislation would be \$580,000 per annum.

In introducing the clean bill, H.R. 8427, we have deleted a provision in the original bill which would have excluded from gross income for Federal income tax purposes disability annuities payable under this bill. Similar provisions exist in law with respect to disability annuities for the military and the Foreign Service. However, the Ways and Means Committee was unable to complete action on this item, which is an amendment to the Internal Revenue Code. Consequently, this provision was deleted pending their final action.

As indicated above, the subcommittee examined this proposal intensively and made a number of amendments which we feel result in an improved bill. We found the Agency witnesses in the course of 4 days of hearings to have been fully cooperative and frank in discussing their needs in this area. The subcommittee concluded that this legislation would materially assist the Agency in its programs.

The report of the subcommittee, Mr. Chairman, was unanimous.

The CHAIRMAN. I think it might clarify the situation if we have Mr. Blandford just to sum up in plain language the key points of this retirement system.

Mr. BLANDFORD. All right, sir.

The CHAIRMAN. What does it do more than the Foreign Service system?

Mr. BLANDFORD. It actually incorporates for a limited number of CIA employees not to exceed approximately 30 percent, and, of course, the number we cannot discuss, a retirement system patterned after the Foreign Service Retirement Act.

What this means is that after 20 years of service an individual can retire and draw an immediate annuity, an individual who is 50 years of age, that is. It also means that a GS-14 can with less than 20 years of service, whose services are no longer needed, can be retired and draw an immediate annuity.

It means that GS-13's and below can receive severance pay and obtain a deferred annuity at age 60 if their services are no longer needed.

The main feature of the bill is the provision dealing with the retirement of GS-14's. We have required, however, that the individual who qualifies in this category must have 10 years of service with the Agency and 5 years of qualifying service. The 5 years of qualifying service is a very important addition which will be peculiar only to the CIA limited retirement system, since we are talking about the specific type of work insofar as oversea areas which would qualify this limited number of employees to the advantages of this retirement system; without putting that requirement of 10 years with the Agency and 5 years of qualifying service it was conceivable that an individual could obtain this benefit of early retirement and an immediate annuity with as little as 1 year of qualifying service, and we wanted to protect against any possible abuse of the system.

Now, we concede that we are vesting in the Director of the CIA a considerable amount of administrative flexibility and discretion. We discussed this at great length; all of these hearings were held in executive session, except the opening statement of Mr. McCone. We went into the justification for the type of legislation that we suggest here. We went into the type of the people who will qualify. Obviously this cannot be discussed in open session. The subcommittee—I think I can speak at this point for the subcommittee—would agree that they made a case for this retirement system and we do recommend it because even though the Director is given administrative discretion, in many areas that are peculiar only to the CIA, for example, the provision that—

Mr. RIVERS. I think, Mr. Chairman, that discretion has to be this way, for security and other purposes, the same reason we didn't permit judicial review.

Mr. BLANDFORD. I was just going to mention that.

Mr. PHILBIN. Mr. Chairman—

The CHAIRMAN. Let me ask one question.

Mr. NORBLAD. Mr. Blandford didn't finish.

Mr. BLANDFORD. I wanted to mention the point Mr. Rivers was going to mention, that the decision of the Director in who qualifies for this type of retirement, and who does not, must be final, and it cannot be subject to review by a court. I think you can all understand why it would be adverse to our interest to have a disgruntled employee go into court and try to justify entitlement by relating his experiences which in his opinion justify this type of retirement. So it is a discretion that we are granting to the Director. We have to obviously have faith in his decisions in this matter.

The CHAIRMAN. Let me ask you one question. Do we set a precedent by stating that after one has served 20 years in the CIA irrespective of age he is eligible for retirement?

Mr. BLANDFORD. It is not a precedent.

The CHAIRMAN. Is that permitted in any other?

Mr. BLANDFORD. Yes, there is the Foreign Service Act and the FBI retirement system.

The CHAIRMAN. That is permitted there?

Mr. BLANDFORD. Yes.

Mr. RIVERS. No precedent.

Mr. BATES. Military services.

Mr. BLANDFORD. The employee who qualifies at age 50 with 20 years of service can retire, and it is a mutual arrangement. We have this in the FBI, and we have it in the Foreign Service, and we are adopting this for the CIA. This is not true, of course, of the civil service retirement system.

Mr. NORBLAD. We also have it in the Congressional Act for us, 18 years and 50 years of age.

Mr. BLANDFORD. Correct, that is right. It is considered to be a hazardous occupation.

The CHAIRMAN. Now, any questions, any members of the committee?

Mr. BRAY. Yes.

The CHAIRMAN. Mr. Bray.

Let there be order, members.

Mr. BRAY. Page 3 says the Director may also retire involuntarily employees at grade GS-13 and below. Now, does that mean that if for reasons that he deems advisable he can release anyone, grade 13 and below, at his discretion?

Mr. BLANDFORD. That is an attrition feature.

Mr. BRAY. And that is not subject to review?

Mr. BLANDFORD. No, sir.

The CHAIRMAN. Now, are there any further questions?

Mr. BECKER. Mr. Chairman, just one.

The CHAIRMAN. Mr. Becker.

Mr. BECKER. I have been trying to find it in the bill. On page 3 of Mr. Rivers' statement in selecting the individuals who will be subject to this new retirement benefit, it says generally only those career employees will be covered whose careers are primarily oriented toward the conduct and support of intelligence activities abroad.

Does that mean that one employee right here in Washington, or in the CIA here, or how is it covered in here that this means those who are in hazardous operations that this bill I believe is primarily directed to?

Mr. BLANDFORD. We give the Director authority to determine who will qualify. The hearings are complete, some of it of course deleted from the printed hearings, but the hearings are replete with examples of the type of people we are talking about. I will try to answer the question in open session without speaking too freely on it, but this is what we mean by qualifying service.

Mr. RIVERS. That is the qualifying phrase.

Mr. BLANDFORD. We are not talking about the average man who reports to the CIA building 8 o'clock in the morning and leaves at 5 o'clock, and goes home and spends his career here in Washington. We are talking about people who are engaged in a far more hazardous occupation than that. We recognize that we cannot spell out either in the report or in the bill what we really mean. The subcommittee understands what it means, the Director of the CIA made it clear what he means, and this is why I said this is the case of where the subcommittee after hearing the testimony decided that they had to put their faith in the Director to decide who among these employees would be considered to have the type of qualifying service, and we used the words "qualifying service" as distinguished from service with the Agency.

Mr. BECKER. What I had in mind was somewhat similar to the chairman's mention of the question of precedent, because as we move along in these 20-year retirements the next thing we will have the millions on civil service who will want a 20-year retirement, too, and that is far more pressure than we will ever get from this.

Mr. RIVERS. If you want further information I will be glad to give it to you.

Mr. BECKER. It isn't that I just want it, Mendel, but whether it is covered adequately that when the great bulk of the civil service organizations gets wise to this bill, they are going to start demanding a 20-year retirement with special benefits similar to this, and we ought to be well prepared as to this hazardous nature. And undoubtedly there may be some machinists or mechanics in civil service, and others, that will deem their occupation as being extra hazardous also, and will want similar benefits. This is what I have in mind.

The CHAIRMAN. Without objection.

Mr. WINSTEAD. Mr. Chairman.

Mr. RIVERS. I will be glad to give you anything you want.

Mr. BECKER. I am not opposed to this.

Mr. PHILBIN. Mr. Blandford, is there any precedent in legislation of this kind for failing to give judicial review to an aggrieved party?

Mr. BLANDFORD. Mr. Warner?

Mr. WARNER. Yes, there is ample legislative precedent for this, Mr. Philbin. We find it in parts of the Atomic Energy Act, in the Veterans Benefit Act, and in part in the Civil Service Act.

Mr. PHILBIN. Does it relate to retirement acts?

Mr. WARNER. Veterans benefit and in the civil service side it is not a complete exemption, but certain findings of the Commission are not subject to judicial review in the retirement field.

Mr. LONG. Has this been tested in the courts?

Mr. WARNER. Yes, it has been tested in the courts, and it is held to be appropriate.

Mr. RIVERS. Let me say this, it is based entirely on security.

Mr. PHILBIN. I can conceive of how in a matter of this kind if it was based on security, and the question came up, the person exercises their right of review before an appellate court, or any court, that it would be possible for the court to conduct the proceedings in camera so there would be no danger to security in any way, if the applicant is aggrieved or feels he is aggrieved, it gives him an opportunity to have his case determined over and above and beyond the decision of the Director, which is purely a bureaucratic decision.

Mr. RIVERS. I saw a case the other day where in my opinion, and a lot of other people's, where a Communist was planted in the FBI. It is perfectly possible to plant one in your Agency for these very reasons. If you spread it out on the court records they could add it up, one, two, three, four, by just ordinary arithmetic and find out the machinations of the Agency. They are not too good, they will get in the church, in the school, they will get in CIA, in the Congress, they will get anywhere. That is why we put this in.

Mr. WINSTEAD. In connection with that, as long as we have the type of leadership we have now in CIA it is all very well, but suppose later on the wrong kind of fellow becomes head of this? Now, you have a record, I assume, Mr. Blandford, where this subcommittee can go back in with the record made and question and keep an eye on this thing?

Mr. BLANDFORD. Yes, sir.

Mr. WINSTEAD. Somebody I think needs to keep an eye on it, but this subcommittee can do that with the record you have?

Mr. BLANDFORD. Yes, sir. The record is in the safe, the amount that had to be deleted for the public hearings probably exceeds the amount that will be printed. There are three features of this bill, I want to make clear—

The CHAIRMAN. Now, members of the committee.

Mr. BLANDFORD. Mr. Chairman.

I just mention that you are only talking about a limited number of employees. You are talking about 50 years of age and 20 years of service, and 5 years with the agency, that is the first time.

The CHAIRMAN. A quorum being present.

Mr. BLANDFORD. And GS-14's and GS-13's and below.

The CHAIRMAN. And if there is no objection, the committee unanimously approves H.R. 8427, and I ask Mr. Rivers to go before the Rules Committee, to obtain a rule, and we agree to the bill with the amendments.

Thank you, Mr. Rivers.

Mr. RIVERS. I would like to say the committee is very glad to do everything they can at the direction of the committee.

The CHAIRMAN. Thank you, that is what you are here for. As long as you do that you will be able to get back to Congress. That is the reason I have been here 49 years.

Now, Mr. Philbin, have you anything from your subcommittee?

Mr. PHILBIN. Yes, Mr. Chairman.

The Subcommittee 2 has three bills this morning. The first of these is S. 812.

Now, the purpose of S. 812 is to authorize the Secretary of the Army to quitclaim and release to the State of Arkansas all rights and restrictions reserved by the United States over 9.8 acres of land upon the payment by the State of the fair market value of the fee simple title to the property.

The Arkansas State Board of Education has erected improvements on property previously conveyed to it under a lease purchase agreement from the adjutant general of the Arkansas National Guard. However, subsequent to the utilization of this property by the board of education it was discovered that such use was in violation of the original Federal conveyance of the property to the Arkansas National Guard. As a consequence, enactment of this legislation is necessary to eliminate the existing restriction on the use of the property.

The Department of the Army, on behalf of the Department of Defense, advises that it interposes no objection to the enactment of this legislation.

Enactment of this legislation will not result in any cost to the Federal Government.

The Senate, on August 6, 1963, approved S. 812 and incorporated the principal amendments recommended by the Department of the Army. In addition, the Senate also incorporated the so-called Morse formula which conditions the transfer of the fee simple title of the property upon the payment of the full market value of the property (less improvements) by the State of Arkansas to the United States.

The subcommittee recommends approval of S. 812 as passed by the Senate.

The CHAIRMAN. Without objection—

Mr. NORBLAD. Are you speaking of the senior Senator from Oregon when you are speaking of the Morse formula?

Mr. PHILBIN. Yes.

Mr. NORBLAD. Thank you.

The CHAIRMAN. Without objection, the committee approves S. 812.

Mr. HEBERT. Does this circumvent the disposal features of the GSA Act?

Mr. PHILBIN. No. Well, this merely—

Mr. HEBERT. I am in favor of the bill.

Mr. PHILBIN. It clears the cloud on the title.

Mr. HEBERT. All I want to clear up is that we can by legislation set aside disposal features of the Federal Property Act.

Mr. BATES. Right.

Mr. PHILBIN. In cases of this kind.

Mr. RIVERS. This is true.

The CHAIRMAN. Without objection, Senate bill 812 is approved.

Mr. Philbin, on behalf of the committee, will place it on the Consent Calendar.

Now, the next bill is Senate 1994.

Mr. PHILBIN. This bill would authorize the Administrator of the General Services to dispose of approximately 5.8 million pounds of waterfowl feathers and down, and would also waive the 6-month waiting period required by the Strategic and Critical Materials Stockpiling Act.

The material proposed for disposal is no longer required in the national stockpile. Also, waiver of the 6-month waiting period normally required for disposals approved by the Congress, should be waived in order to permit the immediate transfer of this commodity to the Department of Defense for its use in connection with the procurement of urgently needed military sleeping bags.

Mr. RIVERS. Will the gentleman yield?

The CHAIRMAN. Just a moment.

Mr. PHILBIN. The proposed legislation has been requested by the administration and is recommended for enactment by both the Department of Defense and the Office of Emergency Planning. Enactment of this legislation will not result in any cost to the Federal Government.

This bill was approved by the U.S. Senate on August 7, 1963. The subcommittee recommends its approval by the full committee without amendment.

Mr. RIVERS. Will the gentleman yield?

Mr. PHILBIN. Yes, the gentleman yields.

(Discussion off the record.)

The CHAIRMAN. Without objection, the bill is favorably reported and Mr. Philbin will report the bill.

Mr. PIKE. Mr. Chairman, I would like to be recorded as opposed to that bill.

The CHAIRMAN. As opposed to it?

Mr. PIKE. Yes, sir.

The CHAIRMAN. Mr. Philbin, you will report the bill and let the record show that Mr. Pike is opposed to disposal of these feathers.

Mr. HARDY. Mr. Chairman, I would like to understand, if I might—

The CHAIRMAN. He wants to keep these feathers.

Mr. WINSTEAD. Is that goose feathers?

The CHAIRMAN. Goose feathers.

Mr. HARDY. I don't want to keep these feathers. There is a lot of other stuff in the stockpile we ought to get rid of and get rid of a whole lot faster than they are getting rid of now. But I would like to understand what is involved here, what this bill does insofar as publication in the Federal Register of a plan of disposal is concerned.

The CHAIRMAN. It requires it to be published in the Federal Register, but we do not have to run the 6 months.

Mr. HARDY. It has to be published in the Federal Register. What has to be published in the Federal Register, the details of a disposal plan?

The CHAIRMAN. The notice that they are going to sell these feathers.

Mr. HARDY. Is it a plan of disposal? That is the thing we got so much fouled up on in the rubber stockpile. Is this, "yes" or "no," a disposal or is it some specific plan of disposal?

Mr. SLATINSIEK. There is a plan of disposal indicated in the Federal Register; however, the departmental witnesses in testifying before the subcommittee indicated that at the moment because of market conditions they do not plan on going forward with commercial disposal, they plan on making a transfer to the Department

of Defense. Testimony received by the subcommittee also indicated that there was no objection from the commercial operators in the field.

Mr. HARDY. The thing that I want to be sure of is that we are not giving some specific approval to a particular plan of disposal in this legislation.

Mr. SLATINSHEK. No, sir.

The CHAIRMAN. We are not doing that.

Mr. HARDY. We have done it before, and I want to be sure we are not doing it here.

The CHAIRMAN. Anyhow, we say no.

Without objection, the bill is reported and Mr. Philbin will report the bill.

Mr. BECKER. Mr. Chairman.

Mr. STRATTON. Could I ask for a point of information? My recollection is that we passed legislation 2 years ago disposing of a substantial amount of feathers. I don't know whether they were waterfowl feathers or other kinds of feathers. Did that legislation actually pass, and have we still got more feathers, or is this a different brand that we are disposing of?

Mr. PHILBIN. Yes, we have more feathers, but these feathers, so we are informed by the military authorities, are urgently needed for military sleeping bags. That is the reason for the disposal at this time. There are additional feathers in the stockpile.

Mr. SLATINSHEK. The legislation to which you have reference, Mr. Stratton, was passed in the last Congress, as Public Law 87-269, authorizing the disposal of 2 million pounds of waterfowl feathers and down. This disposal has been accomplished.

The CHAIRMAN. Any questions, Mr. Pike?

Mr. PIKE. I haven't any questions. I would like to state for the record that I am a little dubious about this alleged shortage of waterfowl feathers. I happen to represent an area which is internationally known for the production of a certain type of waterfowl, and there are waterfowl feathers just coming out of our ears out there, and we cannot get rid of our waterfowl feathers, and we don't—to the best of our knowledge, there hasn't been any demonstrated shortage of these particular products for the production of urgently needed sleeping bags—

Mr. BECKER. Mr. Chairman, I would just like to be informed on the—

The CHAIRMAN. Let there be order.

Mr. BECKER. I would just like to be—

The CHAIRMAN. Wait a minute, Mr. Becker.

Let there be order.

Mr. BECKER. I would just like to be informed by the counsel, or the chairman of the subcommittee, how do we effectuate this change, this transfer from the stockpile to the Defense Department, and the Defense Department then is going to use these feathers and down for the manufacture of sleeping bags? Does the Defense Department then sell these feathers to some manufacturer to manufacture the sleeping bags? How do they come out of the stockpile to the Defense Department, and how is this handled so the Government—

The CHAIRMAN. Answer the question.

Mr. SLATINSHEK. The transfer from the national stockpile cannot occur to another Government agency until it has been approved by the Congress which makes necessary this legislation. The transfer cannot occur prior to the expiration of 6 months unless the law is waived in this instance, which is also necessary and will be effected in this legislation.

Mr. BECKER. What we are doing here.

Mr. SLATINSHEK. The Department of Defense will supply this material to contractors who will bid on the production of sleeping bags, but this will be a defense supplied material.

Mr. BECKER. Is this a usual thing? Now, the Defense Department supplies materials to manufacturers?

Mr. SLATINSHEK. Yes, it is.

Mr. BATES. Very.

Mr. SLATINSHEK. It is.

In answer to Mr. Pike's observation, there is not a shortage of feathers, but the purpose of this legislation is to attempt to reduce the Government's stockpile and effect some savings for the Government in this area.

The CHAIRMAN. Without objection, the bill will be reported—

Mr. HARDY. I would just like to express complete praise for that effort to reduce the Government's excess by utilizing it in Government business, and to say I think if we had done a little bit better job in the disposal of rubber through the Department of Defense we would be in a lot better shape in that. Unless this does a better job in handling feathers out of the stockpile than the Department of Defense has done with rubber, you just as well not pass it.

The CHAIRMAN. The next bill is H.R. 8265.

Mr. PHILBIN. The purpose of H.R. 8265 is to provide the Secretary of the Army with authority to retrocede to the State of Iowa any part of the legislative jurisdiction he deems desirable at the Iowa Ordnance Plant Reservation, Burlington, Iowa, reserving to the United States such concurrent or partial jurisdiction as he may deem necessary.

Hearings concerned with the objectives of this legislation were conducted on both H.R. 3994 and H.R. 8265.

H.R. 3994 would have, upon enactment, immediately vested exclusive civil and criminal jurisdiction over the Iowa Ordnance Plant Reservation in the State of Iowa, providing that this jurisdiction was accepted by the State of Iowa.

Testimony received by the subcommittee indicated that the primary purpose of H.R. 3994 was to provide residents of the Iowa Ordnance Plant Reservation with the right of local suffrage. These residents presently do not possess this right because of their residence on a Federal military reservation, the jurisdiction of which is exclusively in the Federal Government.

H.R. 8265 is also concerned with the problem of legislative jurisdiction but, unlike H.R. 3994, simply authorizes the Secretary of the Army, in this instance, to retrocede such legislative jurisdiction as he deems necessary at the Iowa Ordnance Plant Military Reservation.

The Department of the Army in reporting on H.R. 3994 advised that it was opposed to the enactment of this bill, H.R. 3994, in its present form since the legislation was not directed to any special

conflict in legislative jurisdiction at the Iowa Ordnance Plant but was primarily concerned with the right of suffrage. However, the Army acknowledged the likelihood that future conflicts of legislative jurisdiction might occur at this installation and, therefore, recommended the enactment of language of similar legislation enacted during the 87th Congress which would authorize the Secretary of the Army to retrocede such jurisdiction, if necessary.

During the 87th Congress, the Secretaries of the respective military departments were provided authority to retrocede legislative jurisdiction at Fort Sheridan, Ill. (Public Law 87-160); Fort Hancock, N.J. (Public Law 87-640); Eglin Air Force Base, Fla. (Public Law 87-636); and the Naval Supply Depot, Ogden, Utah (Public Law 87-660).

H.R. 8265 reflects the legislative language recommended by the Department of the Army as a substitute for H.R. 3994, and is, for practical purposes, identical to the legislative enactments previously cited.

In view of all these circumstances, the subcommittee was of the opinion that legislation should be enacted which would provide the Secretary of the Army with the same authority to retrocede legislative jurisdiction as has been previously provided in similar instances at other military installations. Accordingly, the subcommittee elected to report H.R. 8265 which is consistent with the position of the Department of Defense on this subject.

Enactment of this legislation will not result in any cost to the Federal Government.

The subcommittee recommends approval of H.R. 8265.

The CHAIRMAN. Any questions from any members of the committee?

If not, the committee unanimously recommends H.R. 8265 and Mr. Philbin will place it on the Consent Calendar; be sure to call it to the attention of Mr. Gross.

Mr. SLATINSHEK. With the consent of the committee, there is a minor typographical that must be corrected.

The CHAIRMAN. Let it be corrected.

Mr. Hébert, has your subcommittee—

Mr. HÉBERT. We are now sitting on the ROTC legislation.

The CHAIRMAN. That concludes our work that has been turned in by the various subcommittees. I want to compliment the chairmen and each of the subcommittees for their work.

Now, as I stated at the outset, it will not be necessary for the committee to reconvene to handle any legislation until Mr. Hébert finishes with his bill which will probably be by the middle of October.

We will take a recess subject to the call of the Chair.  
(Whereupon, at 11:05 a.m., the committee adjourned.)

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